

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

CHARLES E. RASH,

Plaintiff,

v.

//

Civil Action No. 1:08CV95
(Judge Keeley)

THOMAS STANLEY,
PUBLIC DEFENDER CORPORATION,

Defendants.

ORDER ADOPTING REPORT AND RECOMMENDATION

On March 21, 2008, the pro se plaintiff, Charles E. Rash ("Rash"), filed a complaint pursuant to 42 U.S.C. § 1983. The case was referred to United States Magistrate Judge James E. Seibert for review.

On May 7, 2008, Magistrate Judge Seibert issued a Report and Recommendation ("R&R") that recommended dismissal of the case with prejudice for failure to state a claim. On June 23, 2008, Rash filed objections to the R&R.

This Court reviews objections de novo but may adopt any part of the R&R to which Rash does not object without substantive review. Wells v. Shriners Hosp., 109 F.3d 198, 199-200 (4th Cir. 1997).

Upon de novo review, the Court finds that Magistrate Judge Seibert correctly applied the applicable legal standards when he determined that Rash fails to state a claim under 42 U.S.C. § 1983 because (1) a § 1983 action may only be brought against a natural

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person, not a corporation, See Will v. Michigan Dep't of State Police, 491 U.S. 58, 71 (1989), and (2) private attorneys and public defenders do not act under color of state law merely because they participate in a state judicial system or accept payment from a state agency. Polk County v. Dodson, 454 U.S. 312, 325 (1981).

Consequently, this Court **ADOPTS** the R&R (dkt no. 13) and **DISMISSES** this case **WITH PREJUDICE**. The Clerk is ordered to **STRIKE** this case from this Court's docket.

The Clerk is directed to mail a copy of this Order to the pro se plaintiff, the defendant and all appropriate agencies.

Dated: July 8, 2008.

/s/ Irene M. Keeley
IRENE M. KEELEY
UNITED STATES DISTRICT JUDGE